

Senate File 250 - Introduced

SENATE FILE 250

BY QUIRMBACH

A BILL FOR

1 An Act relating to consent to and notification of individuals
2 regarding HIV-related tests and test results.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 141A.6, subsection 1, Code 2013, is
2 amended to read as follows:

3 1. Prior to undergoing a voluntary HIV-related test,
4 information shall be available to the subject of the test
5 concerning testing and any means of obtaining additional
6 information regarding HIV transmission and risk reduction. If
7 an individual signs a general consent form for the performance
8 of medical tests or procedures, the signing of an additional
9 consent form for the specific purpose of consenting to an
10 HIV-related test is not required during the time in which
11 the general consent form is in effect. If an individual
12 has not signed a general consent form for the performance
13 of medical tests and procedures or the consent form is no
14 longer in effect, a health care provider shall obtain oral or
15 written consent prior to performing an HIV-related test. If
16 an individual is unable to provide consent, the individual's
17 legal guardian may provide consent. If the individual's legal
18 guardian cannot be located or is unavailable, a health care
19 provider may authorize the test when the test results are
20 necessary for diagnostic purposes to provide appropriate urgent
21 medical care. Unless a minor is unable to provide consent,
22 only the minor's consent is required to undergo an HIV-related
23 test and consent of the minor's legal guardian is not required.

24 Sec. 2. Section 141A.7, subsections 1 and 3, Code 2013, are
25 amended to read as follows:

26 1. At any time that the subject of an HIV-related test
27 is informed of confirmed positive test results, counseling
28 concerning the emotional and physical health effects shall be
29 initiated. Particular attention shall be given to explaining
30 the need for the precautions necessary to avoid transmitting
31 the virus. The subject shall be given information concerning
32 additional counseling. If the legal guardian of the subject
33 of the test provides consent to the test pursuant to section
34 141A.6 because the individual is unable to provide consent,
35 the provisions of this subsection shall apply to the legal

1 guardian.

2 3. A person may apply for voluntary treatment,
 3 contraceptive services, or screening or treatment for HIV
 4 infection and other sexually transmitted diseases directly to a
 5 licensed physician and surgeon, an osteopathic physician and
 6 surgeon, or a family planning clinic. ~~Notwithstanding any~~
 7 ~~other provision of law, however, a~~ The consent of a minor's
 8 legal guardian is not required for the minor to receive
 9 services, screening, or treatment. A minor applying for
 10 services, screening, or treatment shall give written consent to
 11 receive the services, screening, or treatment and such consent
 12 is not subject to later disaffirmance by reason of minority.
 13 A minor shall be informed prior to testing that, unless the
 14 minor consents to inform the minor's legal guardian, upon
 15 confirmation according to prevailing medical technology of a
 16 positive HIV-related test result, the minor's legal guardian
 17 ~~is required to~~ shall not be informed by the testing facility.
 18 Testing facilities where minors are tested shall have available
 19 a program to assist ~~minors~~ a minor who consents to notification
 20 of the minor's legal guardian and the minor's legal guardians
 21 guardian with the notification process which emphasizes the
 22 need for family support and assists in making available the
 23 resources necessary to accomplish that goal. However, a
 24 A testing facility which is precluded by federal statute,
 25 regulation, or centers for disease control and prevention
 26 guidelines from informing the legal guardian is exempt from
 27 the informing a minor of the option to consent to notification
 28 requirement of the minor's legal guardian. The minor shall
 29 ~~give written consent to these procedures and to receive the~~
 30 ~~services, screening, or treatment. Such consent is not subject~~
 31 ~~to later disaffirmance by reason of minority.~~

32 EXPLANATION

33 This bill relates to the consent to and notification of
 34 individuals regarding HIV-related tests and test results.

35 The law provides for consent to undergoing voluntary

1 HIV-related tests, including a provision that allows a legal
2 guardian to provide consent if the individual who is the
3 subject of the test is unable to do so. The bill provides that,
4 unless a minor is unable to provide consent, only the minor's
5 consent is required to undergo the HIV-related test and the
6 consent of the minor's legal guardian is not required.

7 The law also specifies who is required to be informed of
8 HIV-related confirmed positive test results. The law provides
9 that if the legal guardian of the individual who is the subject
10 of the test provided consent to the testing, the legal guardian
11 is to be informed of the positive test results and counseling
12 is to be provided to the legal guardian. The bill clarifies
13 that this informing of the legal guardian only applies when
14 the legal guardian provided consent because the individual was
15 unable to do so.

16 The law provides that a person may apply for voluntary
17 treatment, contraceptive services, or screening or treatment
18 for HIV infection and other sexually transmitted diseases
19 directly to a licensed physician and surgeon, an osteopathic
20 physician and surgeon, or a family planning clinic. The minor
21 is to be informed that the minor's legal guardian is required
22 to be informed of a positive HIV-related test result. The bill
23 amends this provision to instead provide that the consent of a
24 minor's legal guardian is not required for the minor to receive
25 services, screening, or treatment, and that instead the minor
26 applying for services, screening, or treatment is required to
27 give written consent to receive the services, screening, or
28 treatment. The bill provides that the minor's consent is not
29 subject to later disaffirmance by reason of minority. Under
30 the bill, unless a minor consents to inform the minor's legal
31 guardian upon confirmation of a positive HIV-related test
32 result, the minor's legal guardian shall not be informed by
33 the testing facility. The bill retains the existing provision
34 that requires testing facilities where minors are tested to
35 have a program available to assist minors and legal guardians

1 with the notification process, but under the bill this would
2 only apply if the minor consented to notification of the
3 minor's legal guardian. Under the law, testing facilities
4 which are precluded by federal statute, regulation, or centers
5 for disease control and prevention guidelines from informing
6 a minor's legal guardian are also exempt under state law from
7 notifying a minor's legal guardian. In addition, under the
8 bill, these entities are also exempt from informing the minor
9 of the option to consent to notification of the minor's legal
10 guardian since the entities are already prohibited from the
11 resulting notification.